

**DEPARTMENT OF STATE REVENUE**

**LETTER OF FINDINGS NUMBER: 01-0290P**  
**Individual Income Tax**  
**Calendar Year 2000**

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

**ISSUE(S)**

I. **Tax Administration** – Late payment penalty

**Authority:** IC 6-8.1-10-2; 45 IAC 15-11-2

Taxpayer protests the penalty assessed for the late payment.

**STATEMENT OF FACTS**

Taxpayer's CPA, in a letter dated October 31, 2001 protested the late payment penalty because it had properly filed the Federal form 4868 and submitted a copy with its state income tax return. Because the taxpayer filed a return that was under a valid extension taxpayer does not believe it owes a penalty. Taxpayer filed its IT-40 return on April 23, 2001 with a balance of tax due in the amount of \$2,449 that included a penalty for underpayment of estimated tax in the amount of \$121.

I. **Tax Administration** – Penalty

**DISCUSSION**

At issue is whether the taxpayer may pay the balance of tax due without any penalties if an extension to file has been submitted.

Taxpayer made no payments until after the due date of the return. Taxpayer states it filed an automatic extension of time to file with the Federal Government and included a copy of form 4868 with its return. Upon completion of its return, the taxpayer made a payment in the amount of \$2,449 on April 23, 2001.

IC 6-8.1-10-2 (a) states:

If a person fails to file a return for any of the listed taxes or fails to pay the full amount of tax shown on his return on or before the due date for the return or payment, incurs, upon examination by the department, a deficiency which is due to negligence, or fails to timely remit any tax held in trust for the state, the person is subject to a penalty.

IC 6-8.1-6-1(c) states:

If the Internal Revenue Service allows a person an extension on his federal Income tax return, the corresponding due dates for the person's Indiana income Tax returns are automatically extended for the same period as the federal extension, plus thirty (30) days. However, the person must pay at least ninety percent (90%) of the Indiana income tax that is reasonably expected to be due on the original due date by that due date, or he may be subject to the penalties imposed for failure to pay the tax.

Taxpayer should have remitted at least ninety percent (90%) of the tax due by April 16, 2001 and has not provided reasonable cause for its failure to do so.

### **FINDING**

Taxpayer's protest is denied.